



DECISION

Fair Work

(Registered Organisations) Act 2009
s.189—Arrangement for conduct of an election

Association of Consulting Architects - Australia (E2015/228)

MR ENRIGHT

MELBOURNE, 7 SEPTEMBER 2015

Arrangement for conduct of an election.

[1] On 25 August 2015 the Victoria/Tasmania Branch of the Association of Consulting Architects – Australia lodged with the Fair Work Commission the prescribed information in relation to an election for the following offices:

Branch Committee Members (15)

Branch President/Branch Representative to National Executive Committee
Branch Vice President
Branch Secretary
Branch Treasurer

[2] Prescribed information should be lodged with the Fair Work Commission within the time prescribed by Regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009* (the Act). Rule 36(1)(b) of the organisation’s rules provides that nominations for the Branch Committee Members shall be called for no later than 30 June. Accordingly, the prescribed information was required to be lodged no later than 30 April 2015. The prescribed information was lodged on 26 August 2015.

[3] On 1 September 2015 advice was received by Graham Hardy, Secretary of the South Australian Branch of the Association of Consulting Architects – Australia, advising that the delay in lodgement by the South Australian and Victoria/Tasmania Branches was unintentional, and arose due to the inadvertent use of a previously-certified organisational rulebook which did not incorporate alterations of 31 December 2014 containing rules pertaining to the prescribed day for lodgement by branches of the organisation.

[4] Having regard to the normal and reasonable expectation that registered organisations take steps to ensure that they comply with the time-frame requirements set out not only in the Act but also in instruments or references pertaining to their own governance formulated by organisations themselves, I decline on this occasion to allow, in the formal sense intended by section 189(2) of the Act, a later day for lodgement. The failure of the branch to lodge the prescribed information before the prescribed day contravenes section 189(2) of the Act which is a civil penalty provision. Failures by organisations to comply with civil penalty provisions

may be the subject of applications by the Fair Work Commission for orders in the Federal Court.

[5] The refusal of an extension of time under section 189(2) of the Act does not, however, affect a determination of an election notification matter for the purposes of section 189(3) of the Act.

[6] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE GENERAL MANAGER

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**PRESCRIBED INFORMATION IN RESPECT OF ELECTION
SECTION 189(1) OF THE FAIR WORK ACT 2009**

I am an officer of the Association of Consulting Architects – Association of Consulting Architects – Victoria/Tasmania and am authorized to sign this statement with is lodged in accordance with subsection 189(1) of the Fair Work Act 2009:

1. *The offices in respect of which the elections are required are:*

Branch President
Branch Vice President
Branch Secretary
Branch Treasurer

Branch Committee Members 15

2. *The reason for which the elections are required are:*

Term of office due to expire.

3. *The electorate for the election is:*

Direct Voting System all members.
Collegiate Election Branch Committee Members.

4. *The dates and times that nominations open and close are:*

This will be in consultation with the Australian Electoral Commission.

5. *The voting systems to be used in the conduct of the election are:*

Direct Voting System and Collegiate Election for President, Vice President, Secretary and Treasurer.

6. In accordance with the ACA Constitution Rules 19(3)(f) and 31(2) the roll of voters is to be closed 7 days before the day on which nominations for election open.

Signature



Simon Hanger
President
25 August 2015